

process they used to spend the money. That made perfect sense to me as a Republican. That is why I said it for 4 months.

Now, all of us on our side have a moment of reckoning here. I don't want to default, and we won't. But I do want to make sure that when Republicans tell their other Republicans and the public at large, you can somewhat count on who we are and what we say. We put that at risk for no good reason.

To the leadership of both sides, I like you. Senator MCCONNELL has been a great Republican leader—minority leader, majority leader. But this is a moment where I want to be on the RECORD to say, I don't like this.

What we have done is allow the House of Representatives to change a Senate rule. No matter what the subject matter, that is not a good idea. We have set in place a process that allows our Democratic colleagues to raise the debt ceiling without using reconciliation, the budget process, where they would have to amend the budget resolution. The very resolution they used to spend all this money, we are simply asking amend it to pay for it.

We have taken that off the table, and people on our side are not going to accept this very well. So all I can say is—I want to make it clear—when it comes to Medicare, count me in to avoid the cuts. When it comes to raising the debt ceiling, I want it done through a process that will make it harder to spend all this money in the future. And I want to be part of a Republican Party that you can take what we say to the bank on big stuff—stuff that matters.

So I have a proposal that when the bill comes over from the House, which it is here, that would allow us to vote to prevent Medicare from being cut, would strip out the way you are going to raise the debt ceiling, reject the idea that the House can amend a Senate rule to limit minority rights—and that is what we have done here.

This is not a good idea, to take Medicare and marry it up with anything important, as Senator HAWLEY said, because there is no end to that game. And it is not a good idea, in my view, even with some Members of my own party agreeing, to let the House change the Senate rules. I don't like that. We have set in motion some really dangerous stuff here, so I have the following proposal:

As if in legislative session, I ask unanimous consent that when the Senate resumes consideration of House message to accompany S. 610, it be in order for me to offer amendment No. 4877, which strikes section 8 relating to the debt limit. I further ask that the Senate vote on adoption of the amendment prior to the vote on the motion to invoke cloture on the motion to concur in the amendment to S. 610.

In English, I am asking for a vote so that we can show the country that we will protect Medicare, but many of us are not going to have our fingerprints on a Washington deal that I think stinks up the place.

The PRESIDING OFFICER. Is there objection?

Mr. WYDEN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, now, my colleague from South Carolina began his remarks with two of my very favorite subjects: supporting America's senior citizens and playing in the NBA, a lifetime dream of mine.

But the fact is, this unanimous consent request from my colleague is essentially a different way to do the same thing as the Kennedy request. And, colleagues, it is wrong for exactly the same reason.

The prospect of default is not simply a matter of the two sides squaring off over who has got the best talking points. The fact is, default would just be an economic disaster.

I just laid out what it would mean for our small businesses and our folks who depend on keeping interest rates from shooting into the stratosphere, and the military would have difficulty getting paid. That is not what America wants.

Colleagues, I was just home this weekend. I got around my State, and what people said overwhelmingly is—they said: "Hey, I heard you guys just got together"—I say to my friend from South Carolina—"and you guys got an agreement on keeping the government open. Heard that wasn't going to happen."

And then they said: "Ron, what you have always tried to do since those Gray Panther days"—and my colleague from South Carolina knows I always try to be bipartisan.

They said: "Keep it going. Keep going with that bipartisan effort."

Now, they are listening to a debate about my colleagues trying to bust up an agreement between the Democratic leader, Senator SCHUMER, and the Republican leader, MITCH MCCONNELL, to make sure we pay the bills for costs that have been incurred.

So my colleague from South Carolina has asked for consent, and I think it would be a mistake for this country and be a mistake particularly for our country's senior citizens that I have devoted so much time to. For that reason, I object.

The PRESIDING OFFICER. The objection is heard.

The Senator from South Carolina.

Mr. GRAHAM. So why does this matter? It matters a lot about how the Senate works. Every Member of this body has the ability to come down to the floor and object to a piece of legislation. That makes the Senate different than the House.

What we have done here is allowed the House to change the Senate rules in a fashion where, if you can get 10 Republicans, all of us are dealt out. So that is not a good idea 1 time, 10 times, or 100 times by either party because what it does, it changes the rules of the Senate in a fashion that I feel very uncomfortable with simply because the

House has been able to change the rules of the Senate so that all of us have been basically marginalized.

There will be some Republicans who are my friends, and do what you need to do. I understand. I don't want to default on the debt either. But this is a bad idea. It is not what we promised we would do. It sets in motion playing the Medicare card in a dangerous fashion, and it sure as hell sets in motion playing with the rules of the Senate in a fashion that I never even thought of until 24 hours ago.

So I want to make this hard, not easy, because I think what we are doing is going to really change the structure of the Senate and certainly going to do a lot of damage to the Republican Party.

I yield the floor.

The PRESIDING OFFICER (Mr. OSSOFF). The Senator from Tennessee.

VACCINE MANDATE

Mr. HAGERTY. Mr. President, on September 9, President Biden announced that his Department of Labor, through OSHA, would issue a vaccine mandate covering more than 80 million privately employed Americans. Violators would be subject to significant financial penalties.

This mandate makes medical decisions for much of the American people with the stroke of a pen, and it immediately struck me as severe Federal overreach. Therefore, the next day, I wrote to the Secretary of Labor to confirm that he would submit this mandate to Congress for review under the Congressional Review Act. In that letter, I noted that Americans' elected representatives should review an order that threatens the livelihoods of many of their constituents.

I am pleased to join Senator BRAUN and a majority of my Senate colleagues in supporting this resolution to disapprove President Biden's vaccine mandate.

Regarding the mandate itself, I want to first say that I support the vaccine, which is a product of President Trump's Operation Warp Speed. I visited my doctor, and I made the personal choice to take the vaccine. I have spoken to many Tennesseans and have urged them to do the same. But the decision to take the vaccine is a personal one. It is a decision that each American should be allowed to make in consultation with his or her doctor, not under Federal threat of job loss and financial penalty. This mandate improperly puts the Federal Government between Americans and their doctors and between Americans and their jobs.

Tens of millions of essential workers were asked to risk their health for the good of the country during the pandemic. They courageously responded to this call. Many of them—many of them—contracted the virus. Yet now we are telling these heroes, from front-line healthcare workers to the employees who made sure we had access to groceries and essential goods, that they will be fired unless they comply

with the vaccine mandate. They deserve better.

Not only is this vaccine mandate wrong, but it was promptly declared unlawful by the U.S. Court of Appeals. Other Biden administration vaccine mandates are meeting similar fates in the courts. Yet the Biden administration refuses to relent or reevaluate the damage that it is doing.

Sadly, the Biden administration's use of Federal Government power to control the American people's lives is not limited to vaccine mandates; it is a basic element of their strategy to remake America. Don't believe me? Just look at the Democrats' so-called Build Back Better proposal. The Biden administration is marketing this legislation to transform America by using a cartoon depicting a mom and her son and the government programs on which they would depend under this plan from the very beginning of their lives to the very end. That is the definition of cradle-to-grave, Big Government dependency, and that is the stated goal of the Democrats' legislation.

This legislation federalizes preschool and childcare, which will crowd out community- and faith-based providers and put the Federal Government in charge of what your children are taught during their most formative years.

If this was about children, then parents would be allowed to choose the preschool or childcare provider that is best for their children, but, instead, it is about control. So the government would ultimately decide which preschools and which childcare providers would survive.

The Build Back Better legislation increases by 10 times the penalties on private employers for violating the vaccine mandate. Now, a willful violation can result in a \$700,000 fine and must result in a minimum fine of \$50,000. In other words, small businesses that fail to comply will face financial ruin.

When it comes to employment, if you are one of the millions of Americans who work in the oil and gas industry, the Build Back Better plan delivers \$550 billion worth of crushing Green New Deal mandates and tax increases. It replaces these good-paying jobs with \$8 billion to the Civilian Climate Corps, a taxpayer-funded climate police.

Once your job is gone or your business is closed, the Build Back Better proposal offers government welfare programs with no work requirements. This attacks the dignity of work and right of self-determination that underscores what it means to be American—again, more government control.

By providing \$80 billion in increased IRS funding—a staggering six times the current IRS budget—the Biden administration is planning to wring an extra \$400 billion out of the American people to pay for all of this Big Government. With everyone from small business owners to grandparents now fac-

ing regular audits and IRS spying on their bank accounts, the government will have much greater control over how Americans earn and how they spend their money.

In sharp contrast, Republicans want to put Americans, not the Federal Government, in control of their lives. We want to strengthen the American dream so that Americans can free themselves from government dependency. We oppose Big Government socialism that imposes greater Federal control over Americans' lives.

In the coming weeks, Members of this body will be asked a very simple question, whether on the vaccine mandate or the Build Back Better legislation: Do you believe the Federal Government should have more control over American lives? Their answers are crucial for the future of our country. Is cradle-to-grave government dependency something to help Americans avoid or is it something to strive for? Should personal healthcare decisions be made by Americans or by government agencies? Do parents know what is best for their children or should bureaucrats and teachers unions decide? Are you willing to eliminate good-paying energy jobs? Should the IRS have more power to spy on the American people?

Over the next weeks, all of us must decide what kind of country we will have. My hope is that we will preserve and strengthen the American dream by empowering Americans to determine their own futures, to climb the ladder of success, and to free themselves from government dependency—not treat them with a lack of dignity that suggests that the very best they can hope for is a life managed by the Federal Government.

The first opportunity to provide an answer is the upcoming vote on this resolution disapproving President Biden's vaccine mandate. I have been pleased to work with Senator BRAUN to bring this resolution to the floor, and I urge all of my colleagues to support its adoption.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. LEE. Mr. President, Congress, not the Executive, makes the laws in this country. National laws have to be passed by the legislative branch. Our Constitution makes that very clear. In fact, it is the very clause of the first section of the first article of the Constitution. It states unambiguously:

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

You cannot make up Federal law without going through that formula—passage in the House, passage in the Senate, followed by presentment to the President.

In the case of COVID-19 vaccine requirements, the President of the United States has decreed mandates—mandates that threaten the jobs and

the livelihoods of 45 million Americans, including over half a million Utahns whose jobs are on the line.

Now, courts across the country have started—quite correctly—to recognize that these mandates are offensive to the Constitution. They are not authorized by the law. But that doesn't diminish in any way, shape, or form our duty here as Members of the U.S. Senate, as part of the legislative branch, to assert clearly, unambiguously, and swiftly that these mandates are unconstitutional, illegal, and morally indefensible.

I have heard from hundreds of Utahns who are themselves at risk of losing their jobs and therefore their ability to provide food for their children, specifically due to these mandates. Their stories are nothing short of heart-breaking. I have heard from countless businesses in my State, businesses that are afraid of losing key workers and having to shut their doors and no longer operate specifically due to these mandates. I have heard from people who happen to have medical or religious concerns over the vaccines, and their pleas are falling on deaf ears.

These Americans aren't asking for anything extravagant or unusual or unreasonable—far from it. These are Americans who are simply worried about their ability to put food on the table and gifts under the tree during challenging economic times—economic times that are difficult enough as it now stands, economic times that have been worsened by excessive government spending, economic times that are about to get a whole lot more difficult for a whole lot more people specifically because of these mandates. President Biden seeks to make them not only unemployed but also unemployable, second-class pariahs.

Well, it is true the courts have offered temporary relief to some, but these Americans and these businesses look to Congress for immediate, lasting, and permanent relief. We do, after all, make the law. We are the only branch of the Federal Government authorized to do so.

So this will be one of the easiest votes that I have ever cast in my 11 years in the Senate. The American people agree. Only 14 percent of those polled support firing those who are unvaccinated. Fourteen percent of all Americans say that, yeah, somebody who doesn't get the vaccine ought to be fired as a result of not getting the vaccine. Even some Democratic politicians are starting to change their tune. They are souring on the mandates.

Americans understand that conditioning employment on personal medical decisions is callous, it is cruel, and it is immoral. It is certainly not something that these people want to face. It is not something that Democrats or Republicans want. It is not something they agree with. It is not something they are going to tolerate.

The economic impact of firing half a million Utahns would be disastrous,

and when you replicate the effects of doing that on State after State, where we see—according to many datasets, anywhere from a quarter to a third of the workforce in most States is being threatened by this. In some States, it is higher. It is more like 40 percent in places like West Virginia, 37 percent in Alabama, and 31 percent in Utah.

Now, in the healthcare sector alone, where keeping doctors and nurses and technicians at work has been particularly difficult, the Nation risks losing countless thousands of key professionals while the need for their very services remains most dire.

This isn't acceptable. It is not something we want to see. It is not something we should have to face.

When you add all of this up, the cumulative effect across different industries and in different States across the Nation would be catastrophic as we face supply chain troubles, inflation, rising gas prices, a labor shortage, and so, so much more. The very last thing our economy needs is to have tens of millions of Americans unemployed.

I am very, very much against these mandates. I am for the vaccines. I have been vaccinated. My family has been vaccinated; and I have encouraged people everywhere to get vaccinated, but when someone chooses not to be vaccinated for whatever reason—whether it is a medical reason or a religious reason or a reason related to a personal belief or due to a specific concern about a specific reaction they have had to something else—it is still their decision. It still doesn't warrant the overpowering hand of the Federal Government's coming in and threatening to force their employers to fire them under the threat of crippling penalties—penalties that any employer, no matter how big or wealthy or otherwise lucrative, would find incapacitating.

I have come to the Senate floor now 20 times to speak specifically against President Biden's vaccine mandates. I have offered more than a dozen bills to reduce their harms on millions of Americans and hundreds of thousands of Utahns.

Today, with my colleagues, I encourage the Senate to use the Congressional Review Act as it was intended. There is no clearer example in the history of the Congressional Review Act of such an egregious overstep by the Executive. There is no more blatant abuse of delegated authority or usurpation of authority that was never granted. The Congressional Review Act provides us with the opportunity to strike down this offensive mandate and make sure that neither President Biden nor any subsequent President can institute a similar rule.

I encourage my colleagues to think of the half a million Utahns, of the almost 5 million Californians, of the 300,000 West Virginians, and of the tens of millions elsewhere across the Nation. Forty-five million livelihoods are at stake of the workers and families in

each of our States. These Americans demand that we take action. Today, we have that choice. I implore each and every one of my colleagues to stand with the American people, the American worker, the American family by supporting this resolution.

The PRESIDING OFFICER. The Senator from Nebraska.

Mrs. FISCHER. Mr. President, I rise this evening to discuss President Biden's divisive and unprecedented vaccine mandate on private businesses.

I would like to make one thing clear at the start: I have encouraged Nebraskans to consider getting vaccinated since the day these vaccines were approved, and I hope more Americans will join me in choosing to get one, but that is their choice.

Through OSHA, the administration has issued an "emergency rule" to require, roughly, 84 million employees of private companies to get vaccinated or be subjected to weekly testing. If business owners fail to enforce this rule for their employees, they could be fined tens of thousands of dollars per violation.

The Biden administration is on entirely new ground here. There is simply no precedent for this kind of intrusion into Americans' private lives. Courts agree. The Fifth Circuit blocked the OSHA mandate almost immediately, citing "grave statutory and constitutional issues."

We in Congress have the power to push back too. In October, I joined nine of my Senate colleagues in sending a letter to President Biden that outlined our concerns about this abuse of Federal power. Under the Congressional Review Act, the House and Senate can vote to overturn executive Agency actions like this OSHA mandate, and I hope the Senate will do that when we vote on this later today. All 50 Senate Republicans signed on to this challenge. If our resolution passes both Chambers—and it looks like it may do that on a bipartisan basis—President Biden will have to decide if he wants to keep defending this deeply unpopular policy.

The administration's decision to force private employees to get vaccinated is not just unprecedented; it is also counterproductive. It would apply to nearly 300,000 workers in my State of Nebraska alone—more than 28 percent of our entire workforce. Businesses across Nebraska, from grocery chains to irrigation companies and family farms, have reached out to me about the damage this mandate will do to their companies. They come from very different industries, but their message is the same: We support the vaccines, and we have taken this pandemic seriously, but if the President goes through with this mandate, we could lose many of our employees.

At a time when millions of jobs need to be filled and we are seeing massive supply chain issues, Americans simply cannot afford this kind of Federal overreach. We need to stop this mandate in

its tracks here in Congress because this could be the first step on the road to even stricter rules.

Let's just look at New York City. It has recently announced one vaccine requirement that will affect private employees and another that will affect children as young as 5 years old. Bill de Blasio's parting gift to New Yorkers is this: Get at least one shot by December 27, or you are going to lose your job.

Starting later this month, kindergartners are going to have to show vaccine cards to get into restaurants, movie theaters, and other public places.

I do not want to see policies like this even come close to being enacted at the Federal level, but I wouldn't put it past this President to try. The Senate must pass this resolution and prevent these kinds of mandates from being issued again in the future.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BRAUN. Mr. President, I come here this evening, but I have been back home on recess breaks ever since there has been this idea of a vaccine mandate.

We have got a modern miracle in having vaccines available like they have been. It is part of the long journey against COVID. Along with therapeutics now, they are miracles. Yet getting vaccinated should be a decision between an individual and his or her doctor. It shouldn't be up to any politician, especially in a mandate coming down from that highest authority—our President—and he ought to be consistent with what he has said in the past. He said he would never make vaccines mandatory. He didn't keep his word.

Overreach—I have been here a little under 3 years, and I see it in so many arenas, a lot of it with good intention. We try to solve things here. I think the American public sometimes scratches its collective heads to say: Where are the results? Why does it cost so much? But in this case, you have got to also take into consideration our Constitution, our personal freedoms. It is at stake today.

The Federal Government has no authority to make anyone choose between getting a vaccine and keeping their job. Today, this body will stand up against this overreach.

Main Street—Main Street—is where I come from. When you have to explain to people constantly when they are scared by actions like this, can this possibly happen; will the government go through with it; will it somehow fall apart—well, when you have bad ideas, that eventually happens. And it is going to start here this evening. We have seen it in the courts. It has been repeated earlier here this evening how unpopular it is with the American public.

We did everything we could to keep individuals with their employers. We have spent billions, trillions of dollars doing so. The threshold for a small

business then, when we were helping, was 500 employees. Now we have lowered it to 100. It has got people frightened across the country.

Small businesses face enough hardships. Most are finally getting some type of equilibrium with everything that has happened over the last year and a half, and now they have to contend with this.

As mentioned earlier, any businesses could get fined up to \$14,000 per employee. That is more than we were lending them—money—in some small businesses over the recent past.

A lot of stuff just does not make sense. Listen to the number of organizations, ones that all play into telling us how they like to keep free enterprise going, keeping the private sector healthy: the National Federation of Independent Business, NFIB; National Retail Federation; National Restaurant Association; Association of Wholesale Distributors; American Trucking Associations; Associated Builders and Contractors; Associated General Contractors; American Pipeline Contractors; National Lumber and Building Material Dealers; Distribution Contractors. These are all businesses—I have another 10 I could mention—that come from Main Street America. It is not the tier of largest corporations; these are the businesses in our own hometowns. They are crying out: Do not follow through with this lunacy.

When you dig a hole, and you keep making it deeper, despite everything you are hearing, that is a bad business plan. You can always get out of it by just quit digging. And you are hearing it loud and clear.

We must focus on returning to the prosperity we achieved pre-COVID. One thing that will stop this recovery cold is the Federal Government getting in the way, as it is doing now.

His mandates are under fire in the courts. Main Street job creators are complaining against it. And tonight, the U.S. Senate must send a clear message: Back off on this bad idea.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, I come to the floor today to join my Republican colleagues to oppose President Biden's vaccine mandates.

Last December, President-elect Joe Biden told the American people that he would not issue a vaccine mandate. Just a year ago, as President-elect, Joe Biden said:

I don't think they should be mandatory.

He said:

I wouldn't demand it to be mandatory.

Last October, as a Presidential candidate, Joe Biden said:

You can't say "Everyone has to do [it]."

Then, this summer, his Press Secretary said it is "not a role the federal government even has the power to make"—"not a role even the federal government has the power to make."

In July, the Director of the Centers for Disease Control said:

There will be no nationwide vaccine mandate.

Then, in early September, with this Nation in shock and reeling because of the disastrous collapse in Afghanistan, suddenly and unexpectedly and completely opposite of everything this administration has promised, the Biden administration broke the law, and in doing so, violated the rights of the American people by calling for this vaccine mandate.

Joe Biden issued a nationwide mandate, and in doing so, he has taken a sledgehammer to the American workforce and the American economy. Because of the President's irresponsible policies, we now have the worst labor shortage in American history, and we have broken new records for unfilled jobs. As a result, we also have the worst supply chain crisis in 40 years. We don't have enough goods on the shelves. We don't have enough workers to fill the shelves.

The President must have known that many wouldn't comply with his mandate. He must have known people would be forced out of their jobs as a result of the mandate. He didn't seem to care. He imposed the mandate anyway.

Now people are losing their jobs, shelves are empty, and prices continue to rise. Inflation is the No. 1 concern of the American people.

Now, I am a doctor. I am vaccinated, so is my entire family. I am pro-vaccine and anti-mandate. Vaccines work. Nationwide mandates don't work.

Courts have already ruled that the President's mandates are illegal. Yesterday, a Federal judge in Georgia blocked the mandate on Federal contractors. Not only are these mandates illegal, they are ineffective.

Joe Biden's mandates have only hardened people against the vaccine. They have increased resistance to getting vaccinated because President Biden has politicized the vaccines, and all the mandates have accomplished is making people lose their jobs.

In the Joe Biden world, his mantra seems to be, vaccinate or terminate.

What we ought to be doing, instead, is giving people information. Let them work with their doctors to make the right decision for them and their families.

That is what I have been doing for decades in Wyoming as a doctor. We don't need mandates. We don't need public health officials who can give Americans reliable information, saying they have to enforce and apply a mandate. They are there to give the information and then the vaccine if the person chooses to have it.

The Biden administration spent 10 months flip-flopping on this issue. President Biden ran from his basement during the campaign saying he was the answer to COVID. He is not, hasn't been. He has sent one mixed message after another, and then he has issued a

nationwide mandate. It has been inconsistent, ineffective, and incompetent.

When President Biden issued his mandate, he said, "We've been patient [with the unvaccinated] but our patience is running thin."

Well, I will tell you, Mr. President, the American people have been patient. It is the patience of the American people now with you, President Biden, that is wearing thin.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I ask unanimous consent that Senator LANKFORD be recognized for up to 6 minutes, Senator MURPHY for up to 5 minutes, and that I be recognized last for up to 12 minutes prior to the scheduled vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma.

Mr. LANKFORD. Mr. President, it is sort of hard to be able to recognize a simple fact that this is the United States of America, home of the free, land of the brave.

Then why is it such a difficult conversation with so many people in my State when they ask this question: Are we still free as a nation?

Why are we having this conversation? Are we still free as a nation? Of course, we are.

We are having this conversation because September 9, the President of the United States announced he was losing patience with the American people, and he was going to put a new demand on every single office in America, every workplace; that anyone who had 100 or more people in their company, every single person in that company had to be vaccinated because the President was losing patience with them. He said it is for health risk.

COVID-19 is serious. I have been vaccinated. Everyone in my family has been vaccinated. I am exceptionally grateful for the vaccine. But to be able to reach into companies with this one simple statement: If you don't follow my instructions, so the President says, you will be fired—that every person in the country now doesn't work for their employer, they now work for the President of the United States. May I remind us, we are the United States of America, home of the free, land of the brave; that we are a people who make our own decisions and live in a free nation.

What is interesting is, there is all this conversation about everyone needs to be vaccinated or we are not going to ever get to herd immunity; we will never get to herd immunity; we will never be able to put down COVID-19. How many times have we heard that statement over the past year and a half? We have got to get to herd immunity.

Well, I don't know if anyone has looked lately at the CDC's website. But if you go to the CDC website, it will list out percentagewise how many people have been vaccinated or currently

have natural immunity in their system. And if you go to their website and see it, the number that they have for 16 years old and up is 92 percent of America. Ninety-two percent of Americans either have natural immunity, antibodies in their system, or they have received the vaccine and have that set of antibodies in their system.

May I remind us again, how long have we been talking about herd immunity? I understand COVID is a tenacious disease. I take it seriously because, like every single person in this room, I have lost family members and friends who have died due to COVID. But we do not have the right as Americans to assign to the President of the United States that that President can actually go to any company he chooses and pick and choose the companies and say, this company, everyone has to be vaccinated; that company, they don't. If you have 95 people, it is no big deal. If you have 100 people, they are toxic. If you are FedEx and UPS, you need to all be vaccinated, but if you are the U.S. Postal Service, you don't have to be vaccinated. That kind of picking and choosing that the President has done around our economy, that is not the role of the U.S. President.

For all of us who take this disease seriously and for all of us who have been vaccinated and stand up frequently and talk about the importance of vaccinations, we also believe that we are Americans and that we are free people.

So what are the mandates that are down now? Well, there was a private-sector mandate for every company of 100 or more. There was a Federal contractor mandate that if you have a company that works for the Federal Government, regardless of your size for any Federal contracting, that you have to also have every person vaccinated. There are Federal employers who all have to be vaccinated, members of the military, reaching into the National Guard, which, for the first time ever, they have violated the law, saying that they are going to literally cut the pay for members of the National Guard who are not vaccinated, though the law clearly states they cannot reach into a State National Guard and literally pick and choose individuals they want to pay and don't pay. They have already dropped that out there and saying they are going to do that as well.

They have reached out to members of the healthcare community and told them, if you have Medicare or Medicaid, then you all have to be vaccinated. What has been the response? The American people have responded loud and clear that they believe we live in the land of the free. And while millions and millions have been vaccinated, they all turn around and say, it was also my choice to be able to do that.

Companies in my State are literally requiring employees to sign two forms: One saying that they will get vaccinated and the second form saying, if you have a negative reaction to the vaccine, you won't sue our company.

What in the world? That is not who we are.

So what has happened in just the last couple of weeks? Well, the courts have finally gotten involved. First off, the courts have done a nationwide stay on the private-sector mandate. That is what we are talking about tonight, putting a nail in the coffin with a vote in the U.S. Senate to say: No, we will not allow this.

There has been a nationwide stay put in for those individuals that are on Medicare and Medicaid and those healthcare workers. There has been a nationwide stay now for Federal contractors, for universities, for individuals around the country that have any connection with the Federal Government.

The courts have already stepped in and said the President doesn't have the authority to do this, and this vote tonight is whether this body agrees that the President should have unilateral power to declare whatever he wants for any private-sector business in the country or if the President doesn't have that authority to do that. That is all this vote is. This vote is not about vaccines and, as has been falsely accused, this whole group of anti-vaxxers that are out here.

This is a very simple vote: Do the people in this body believe that the President of the United States has the authority to declare that any employee in any company of 100 or more to do what he wants?

I say no, because we live in the land of the free and the home of the brave, and it is time for us to go on record on if we believe that or not.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. MURPHY. Mr. President, it is not often that you get the Business Roundtable, which is an organization representing some of the biggest private-sector companies in the world; the largest labor unions in the country; and the American public all on the same page on a policy. But that is what is happening with respect to the President's requirement that big employers in this country either test their employees regularly for COVID or they get vaccinated in order to stop the spread of this insidious disease.

This is a very popular proposal, and it is popular for a simple reason: People are exhausted with having their lives fundamentally changed, turned upside down by a pandemic that we have the power to stop.

We have the power to stop it because of researchers and scientists who discovered a vaccine that is wildly more effective than the vaccines that have been invented to attack other diseases—90 percent effective, if not more, against COVID. If everybody got vaccinated in this country, we could all take off our masks. If everybody was vaccinated in this country, we wouldn't have to be passing emergency relief bills to keep the economy afloat.

If everybody got vaccinated, we could open back up all of our restaurants. That is what Americans want. That is why this policy is so popular.

And I understand what my friend from Oklahoma is saying, that they are not arguing over the efficacy of the vaccine, they are just arguing over the constitutional powers of the Presidency.

But come on. Come on. We understand the power of our words in this place. Republicans know that when they come down to the floor and attack the vaccine mandate day after day after day, they know they are giving fuel to the fire of the anti-vaccine campaign. They know that they have become an extension of those that are trying to convince Americans that the vaccine has a microchip in it, that the vaccine kills you.

It just strains credibility for my Republican colleagues to suggest that there is no connection between the anti-vaccination campaign in this country and those that are every single day on the floor of the Senate talking about how dangerous it is to require that people in this country get the vaccine. There is a connection, and the growing movement of people in this country who think that the vaccine is some conspiracy to hurt people—well, this movement to try to end the vaccine campaign by the President, it is wind underneath their wings.

But let's talk about what this policy really is because it is actually not a mandate for vaccinations. It is a testing mandate. Right? That is what it is. What it says is that everybody in these big employers has to get tested once a week, and if you don't want to get tested, then your employees can get vaccinated.

Let's be clear. This is a testing requirement, not a vaccination requirement, and that testing requirement is totally consistent with the history of OSHA. In fact, OSHA is in the business of mandating testing.

OSHA mandates blood testing for industries with high exposures to lead. OSHA mandates hearing tests for industries with high noise level exposure. OSHA mandates testing for exposure to silica in industries that are working in and around silica.

OSHA requires testing all the time. So that is what they are doing here—yes, on a bigger scale and, yes, also with an ability to avoid the testing if you get vaccinated. But that is what this requirement is really all about.

And it is working. It is working—the numbers going from 50 to 96 percent in a company like Tyson Foods after the vaccine requirement.

Lastly, let me say this: This general lack of seriousness from our Republican colleagues about a plague that has killed 700,000 Americans, it is just stunning to me. It is just stunning. These aren't bee stings. These aren't knee scrapes. This is a deadly pandemic that has ended the lives of 700,000 of our mothers and fathers and

sisters and brothers prematurely, hundreds of thousands of Americans who should be sitting at the Christmas table, who should be at Hanukkah celebrations with their families this month. And they are gone; 700,000 Americans have disappeared.

But apparently, the inconvenience of a weekly test is so odious, is so revolting, that it is worth another 700,000 people dying—because that is what we are talking about: a weekly test. The OSHA rule does not mandate the vaccine; it is a way out of the weekly test, a weekly test that is a little swab swirled around your nostril five or six times for 30 seconds.

That is the requirement. That is the cost, the sky-high, Constitution-violating, unpatriotic cost the Republicans have been down here on the floor railing against for a month. Estimates suggest that that requirement can save thousands of lives. But apparently, the cost of a nose tickle is too great a cost to pay to save thousands and thousands of Americans from dying from a preventable pandemic.

I urge my colleagues to oppose this effort.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank my colleague from Connecticut, and I rise today as well to urge my colleagues to vote against this dangerous resolution, which would pull the rug out from under our COVID response efforts at a really critical moment.

We are fighting an unprecedented pandemic, and we all know just how painful this fight has been. Everyone remembers the way it upended our economy as small businesses shuttered, workers got sent home; the way it upended our healthcare system as emergency rooms filled and supplies dwindled and healthcare professionals started working really long hours in dangerous conditions; the way it upended our lives when schools and childcare providers were forced to close to keep people safe.

We all know people who have been infected by this deadly virus. We all know people who are still fighting the effects of long COVID, which we are still trying to work to understand. And we all know people who have been killed by this virus.

We have lost family members, mothers, daughters, fathers, sons, grandparents. We have all lost dear friends. We have lost beloved community members and frontline workers who keep our communities functioning. We have lost teachers and principals, doctors, nurses, police officers, firefighters. We have lost time with each other that we cannot get back.

This virus left no American and no part of America alone. COVID has now killed over 785,000 people in this country, more Americans than any war we have ever fought. And despite what Republicans seem to believe, given the fact we are voting on a resolution to

undermine a cornerstone policy of our pandemic response and despite the hard-fought and very real progress we have made, this crisis is not over.

We are still averaging over 100,000 new cases a day. We still have over 50,000 people hospitalized with COVID. We are still, right now, seeing, on average, well over 1,000 deaths a day, overwhelmingly among people who are not vaccinated.

And we are still on high alert for new variants. We saw with Delta how a new, more dangerous, more contagious variant of COVID-19 could set back all the progress we fought so hard to make, and we are at this very moment learning more about the Omicron variant and what sort of threat it might pose.

So how on Earth does it make sense right now to undercut one of the strongest tools that we have to get people vaccinated and stop this virus? In what world is that a good idea?

We all know the damage this virus does to our communities. We should be doing everything we can to stop it. We should be using every tool to protect our country, our economy, and our families.

And we know vaccines are one of the best tools we have to do that. It has been almost a year now since the first vaccine was authorized. After months of hoping—remember that?—that news meant we finally had a safe, effective vaccine to protect people from this virus, and we have made a lot of progress since then when it comes to making the most of vaccines and getting them to people across the country.

Vaccines are now authorized, as we know, for everyone ages 5 and up. Booster shots are now available to make sure people continue to stay protected amid concerns over these new variants. And around 60 percent of all eligible people in our Nation are fully vaccinated.

But we still have a ways to go to vaccinate our country and to vaccinate the world if we are going to end this pandemic. That should be our No. 1 priority.

But this resolution that our friends across the aisle are offering tonight would move us in the opposite direction. It will take away one of the strongest means we have to encourage people to get vaccinated, save lives, end this pandemic, and keep our economic recovery on track.

Immunization requirements in this country are not new. They go back as far in our history as General George Washington, who required his troops to get vaccinated against smallpox. They have been critical in the fight of diseases like polio and measles and mumps and rubella, just to name a few.

And the reason we no longer have to worry about diseases like smallpox and polio in this country is because vaccines work.

Nor are workplace safety standards a new thing. The Occupational Safety and Health Administration has a long track record of setting and enforcing

safety standards that simply prevent workers from getting sick or injured on the job.

OSHA not only has the authority to protect workers with safety standards; it has been doing this for 50 years. The law that established OSHA even gave it authority to respond to emergencies by issuing an emergency temporary standard, or ETS, when there is a grave danger to workers.

And it makes all the sense in the world for them to use that power to protect workers from COVID because the painful reality is that COVID-19 has killed a lot of workers. We have lost hundreds of meatpacking workers and grocery store workers to this virus. We lost over 3,600 healthcare workers to COVID in 1 year. And over 10,000 agricultural workers have been killed by COVID.

This is exactly the kind of threat OSHA should be protecting people against. It is exactly the kind of grave danger Congress gave OSHA the authority to issue an ETS to respond to. And OSHA has rightfully used that authority to put forward an emergency temporary standard on COVID-19 that is simple, it is flexible, and it is life-saving.

Republicans seem to not be hearing this part, so I want to be especially clear about it. This requires employers with 100 or more employees to make sure workers either—either—get vaccinated or get a COVID test once a week before they go in to the workplace—either vaccinated or tested once a week.

It also provides, by the way, paid time for workers to get vaccinated, removing a key barrier to vaccinations. It is a strong tool for getting our Nation vaccinated. And despite how my Republican colleagues talk about it, letting employers have the flexibility to offer a testing option means they don't have to ask workers to leave their job if they choose not to get vaccinated.

This step for getting people vaccinated or requiring testing is overwhelmingly popular with American people. A poll actually taken shortly after President Biden announced this step found that 6 in 10 Americans supported requiring businesses of 100 or more to have employees vaccinated or tested regularly; and 7 in 10 supported making sure people have paid time off to get vaccinated.

Of course, that should be no surprise. After all, no one wants to go to work worried that they might come home to their family with a deadly virus, worried that they might get their own kids sick, which is why getting more people vaccinated could help our country get back to work.

We all know people want to work where they feel safe. We all want to work where we feel safe. And economists predict that vaccination policies could lead to millions of Americans reentering the workforce.

Let's get something straight: the big threat to our workforce and to our

economy is the virus. It is the virus that has killed hundreds of thousands of people and shuttered businesses. It is not the safety standard that will keep workers safe and businesses open.

In fact, this type of safety standard is also supported by businesses across the country. Many businesses have already implemented policies like the standard Republicans are trying to overturn. And you know what has happened time after time?

United Airlines, 99 percent of its 67,000-person workforce has complied overwhelmingly by getting vaccinated. Tyson Foods went from having less than half of its 120,000 workers vaccinated to now over 96 percent. MGM Resorts has 98 percent of its workers vaccinated. Walmart says an overwhelming majority of employees have gotten vaccinated. A Connecticut manufacturer with 250 workers recently announced 100-percent vaccination rate. And that list goes on and on.

In one place after another, we are seeing over 90 percent of workers comply with this requirement—some through testing, and the overwhelming majority through vaccination.

The big picture here is that this rule, which Republicans keep attacking, is saving lives. OSHA estimates it will help protect 84 million workers and prevent thousands of deaths and over 250,000 hospitalizations from COVID-19, and yet here we are—Republicans pushing to scrap it entirely, undermining the progress, and putting America lives and livelihoods in danger.

This pandemic has done a lot of damage. It wrecked our economy. It shut down our schools and our businesses. It forced people to postpone weddings and graduations and funerals. It devastated our Nation's mental health. It killed over three-quarters of a million people.

It is not over. We have come a long way. This pandemic sent unemployment as high as 14.8 percent. Today, it is back down to 4.2 percent—the lowest it has been since the start of the pandemic.

Schools have reopened and brought students safely back to classrooms. Businesses are hiring. People are getting vaccinated, getting back to work, getting back to plans that have been put off by this pandemic, and getting back to seeing their friends and families. But they do not want to go backwards. The American people do not want to go backwards. And that is exactly where the Republicans' misinformation on commonsense policies like this will take us: backwards.

We know the path forward to finally end this involves getting everyone vaccinated. We should all be working towards that goal, not against it. Families are counting on us to lead our Nation through this crisis, not back into it.

After all we have lost and all the hard work we have done to rebuild, we must not throw our economy and our communities and Americans' lives into jeopardy by sabotaging our pandemic

response. When you are fighting a fire, you don't stop in the middle of it and turn off the water. That is exactly what this resolution will do.

It takes away one of the most important tools we have given OSHA to protect workers, in the middle of a pandemic when we need it most, and jeopardize all of the hard work Americans have done to get us out of this.

So I am here tonight to urge my colleagues to vote no—no to more lost lives, no to a longer pandemic, and to join me in defending a commonsense tool that will help put this incredibly difficult chapter of American life behind us.

I yield floor.

VOTE ON SMITH NOMINATION

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise to the Smith nomination?

Mrs. MURRAY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Maryland (Mr. VAN HOLLEN) is necessarily absent.

The result was announced—yeas 58, nays 41, as follows:

[Rollcall Vote No. 488 Ex.]

YEAS—58

Baldwin	Graham	Peters
Bennet	Hassan	Reed
Blumenthal	Heinrich	Romney
Blunt	Hickenlooper	Rosen
Booker	Hirono	Sanders
Brown	Kaine	Schatz
Burr	Kelly	Schumer
Cantwell	King	Shaheen
Capito	Klobuchar	Sinema
Cardin	Leahy	Smith
Carper	Lujan	Stabenow
Casey	Manchin	Tester
Cassidy	Markey	Warner
Collins	Menendez	Warnock
Coons	Merkley	Warren
Cortez Masto	Murkowski	Whitehouse
Duckworth	Murphy	Wicker
Durbin	Murray	Wyden
Feinstein	Ossoff	
Gillibrand	Padilla	

NAYS—41

Barrasso	Hawley	Risch
Blackburn	Hoeven	Rounds
Boozman	Hyde-Smith	Rubio
Braun	Inhofe	Sasse
Cornyn	Johnson	Scott (FL)
Cotton	Kennedy	Scott (SC)
Cramer	Lankford	Shelby
Crapo	Lee	Sullivan
Cruz	Lummis	Thune
Daines	Marshall	Tillis
Ernst	McConnell	Toomey
Fischer	Moran	Tuberville
Grassley	Paul	Young
Hagerty	Portman	

NOT VOTING—1

Van Hollen

The nomination was confirmed.

The PRESIDING OFFICER (Mr. KELLY). Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will immediately be notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

PROVIDING FOR CONGRESSIONAL DISAPPROVAL UNDER CHAPTER 8 OF TITLE 5, UNITED STATES CODE, OF THE RULE SUBMITTED BY THE DEPARTMENT OF LABOR RELATING TO "COVID-19 VACCINATION AND TESTING; EMERGENCY TEMPORARY STANDARD"

The PRESIDING OFFICER. All time on S.J. Res. 29 has expired.

The clerk will read the joint resolution by title for the third time.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass?

Mr. BENNET. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 52, nays 48, as follows:

[Rollcall Vote No. 489 Leg.]

YEAS—52

Barrasso	Grassley	Risch
Blackburn	Hagerty	Romney
Blunt	Hawley	Rounds
Boozman	Hoeven	Rubio
Braun	Hyde-Smith	Sasse
Burr	Inhofe	Scott (FL)
Capito	Johnson	Scott (SC)
Cassidy	Kennedy	Shelby
Collins	Lankford	Sullivan
Cornyn	Lee	Tester
Cotton	Lummis	Thune
Cramer	Manchin	Tillis
Crapo	Marshall	Toomey
Cruz	McConnell	Tuberville
Daines	Moran	Wicker
Ernst	Murkowski	Young
Fischer	Paul	
Graham	Portman	

NAYS—48

Baldwin	Heinrich	Peters
Bennet	Hickenlooper	Reed
Blumenthal	Hirono	Rosen
Booker	Kaine	Sanders
Brown	Kelly	Schatz
Cantwell	King	Schumer
Cardin	Klobuchar	Shaheen
Carper	Leahy	Sinema
Casey	Lujan	Smith
Coons	Markey	Stabenow
Cortez Masto	Menendez	Van Hollen
Duckworth	Merkley	Warner
Durbin	Murphy	Warnock
Feinstein	Murray	Warren
Gillibrand	Ossoff	Whitehouse
Hassan	Padilla	Wyden

The joint resolution (S.J. Res. 29) was passed as follows:

S.J. RES. 29

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress disapproves the rule submitted by the Department of Labor relating to "COVID-19 Vaccination and Testing; Emergency Temporary Standard" (86 Fed. Reg. 61402 (November 5, 2021)), and such rule shall have no force or effect.